

# **Proposed California Foothills Legacy Area Land Protection Plan/Environmental Assessment**

## **Scoping Comment Summary**

October 28, 2011

The following summary represents input from individuals, organizations, elected officials, and a local agency concerning issues to be considered in developing the draft Land Protection Plan and Environmental Assessment (LPP/EA) for the proposed California Foothills Legacy Area (CFLA). During the spring and early summer of 2011, background information about the LPP/EA process was posted to the CFLA website, circulated via news release, and mailed to known interested parties to gather input and comments. Public scoping meetings were held in Bakersfield (June 6), Porterville (June 7), Le Grand (June 8), Sonora (June 9), Red Bluff (June 14), and Hollister (June 16). Approximately 400 people attended the six meetings, and verbal comments were recorded. In addition, a presentation regarding the proposed CFLA was given at the California Cattlemen's Mid-Year Meeting in Rohnert Park on June 22. Additional comments were received via letters, faxes, and comments cards (49) and emails (78). The scoping comment period ended on July 15, 2011.

A number of comments received indicated either support or opposition for the proposed easement program. Written comments (via letters, faxes, comments cards, and emails) were about equally divided between support (55%) and opposition (45%) for the proposal. Verbal comments at scoping meeting are more difficult to quantify. At three of the Bakersfield, Red Bluff, and Hollister scoping meetings, a majority of the commentors expressed opposition for the proposal. At the other three scoping meetings (Porterville, Le Grand, and Sonora), the response was more mixed.

The substantive comments received are summarized below. These comments are grouped under different issue topics which are expressed as questions. These issues provide a basis for developing a range of alternatives to be considered in the planning process as well as the topics which will be addressed in the planning documents.

### *What restrictions would be included in the easements?*

Several respondents asked about the type of restrictions that the easements would include, such as limits on: the number and type of livestock; conversion to other agricultural uses such as vineyards; placement or construction of improvements such as stock ponds and wells; fire suppression; and shooting coyotes, or poisoning ground squirrels. Others asked what would happen to a ranch under easement if ranching became uneconomical and a rancher couldn't continue. One respondent questioned if easements affected mineral rights, including surface minerals. Another suggested that easements include restrictions to protect riparian corridors. One respondent requested that easements be flexible enough to allow for changing technology and animal husbandry practices shown to be un-harmful to wildlife. Others asked if easements would include public access or if a management plan would be prepared for each easement. Finally, a few respondents asked what would happen if there is a violation to the terms of the easement.

We also received a few comments about selling a property encumbered with an easement. One respondent asked if an easement would be a hindrance to selling their property and if there would be recourse if no buyers could be found. Another respondent asked if development rights [an easement] could be resold. Another asked what happens to an easement when a property is sold.

Finally, many respondents asked to see an example easement document.

*What would the term (length) of FWS easements be?*

One respondent stated that it was unclear whether the easements are perpetual, or permanent, the latter implying those easements can be modified by agreement. Several respondents stated that perpetual easements are too long. Several others suggested that easements include a 5 year trial period before they become permanent. Others suggested that the easement be for 10, 50, or 100 years or more.

*What is the easement acquisition process?*

We received several questions about the easement acquisition process. Several respondents questioned how the appraisal process worked, who performed them, and whether the potential for development figured into appraisal values. One respondent questioned if there would be a cost for participating in an easement program. Another asked if they would incur any costs if they had their property appraised and later decided not to participate in the program. One respondent asked if the price paid for an easement and the easement itself was public information. Another asked if a landowner has the option of deciding how much land is placed under easement. Finally, one respondent asked about the flexibility of the easement language and whether an easement is difficult to modify.

*What are the benefits of easements?*

We received several questions about the benefits of easements. Several respondents asked if an easement would alleviate environmental regulations. Others asked if easements would keep utilities such as power lines from being placed across their property or protect their ground and surface water. Another respondent asked about the financial benefits of easements. Many respondents wondered if easements affected inheritance tax or if there were any other tax benefits to having an easement. One letter asked if we can provide any legal support to help transfer land between generations of families.

*How would an easement program affect local/regional economies and local land use planning efforts?*

We received several comments on the potential economic effects of the proposed CFLA on local and regional economies. Several respondents asked if there would be a decrease in land value and reduced county tax revenues when easements are purchased. Another suggested that protecting lands from development with easements might inflate housing prices which could affect ranch workers.

Several respondents suggested we coordinate with local governments, working within their existing plans. Others asked if the CFLA would conflict with local planning efforts, such as county plans and if county-identified growth areas had been considered in developing focal areas. One respondent mentioned a specific conflict between a designated development corridor and the Tehama Foothills Focal Area. Another respondent suggested that county zoning should direct development and conservation areas. Another suggested that the proposed easement program could create difficulty with the county's tax assessments, mapping, and the development of transportation corridors, infrastructure projects, energy projects, and similar items. One respondent asked if the proposed CFLA would make it more difficult for projects to mitigate for biological impacts or conflict with existing Transfer Development Programs. Another suggested that it would be better to allow development in the foothills where soils are rocky than on the valley floor farmlands.

*Would land trusts/NGO's have a role in an easement program?*

Numerous respondents requested that third parties (e.g. land trusts) be allowed to hold CFLA easements. One respondent asked if NGOs and local land trusts would have a role in the proposed CFLA easement program and how it would affect the relationship with these groups. Other respondents asked if local organizations/NGOs could negotiate the easements and perform the monitoring (under contract/agreement). Another asked how the proposed CFLA would affect existing easement programs and whether it would result in competition with these programs.

*What would the proposed easement program cost and could the funding be used for other purposes?*

Several respondents asked about the projected costs of the program. A few stated that the program should require mandatory local matching funds. Another asked how many years do we anticipate having funding to complete the proposed project. Several respondents asked if we can fund the Williamson Act in lieu of the proposed CFLA. Another respondent asked us to consider the value of ecosystem services when determining the cost effectiveness of the proposal.

*Would the proposed CFLA result in the increased regulatory scrutiny of easement program participants and their neighbors or others within identified focal areas?*

Many respondents expressed concern that the proposed easement program could lead to increased scrutiny under environmental laws. More specifically, respondents asked if FWS personnel would look for endangered species on easement properties and, if found, increase regulations and requirements on landowners. A couple people mentioned that they fear endangered species may come onto property and restrict usual and accustomed practices. Several asked about the Safe Harbor program, and want some sort of assurance that, if they participated in the program, they or their neighbors would not be penalized for protecting habitat, through some sort of incidental take permit.

Several respondents asked if their neighbors participated in the easement program, would they face increased regulations and scrutiny if they wanted to develop their property. Others wanted to know if we take aerial photographs.

### What is the planning process for the proposed CFLA?

We received many questions about the planning process for the proposed CFLA. These include:

- How and when did the planning process begin?
- What is the relationship between the CFLA proposal and the California Rangeland Conservation Coalition?
- Is the proposed project part of United Nations Agenda 21?
- What the goal of the proposed project?
- Will a programmatic NEPA document be prepared?
- What criteria will be used to select focal areas and boundaries?
- Will threats to land from poorly sited alternative energy development projects, such as wind or solar be considered when designating focal areas?
- Will the threat assessment be updated to reflect the reduced threat for conversion due to the economic downturn?
- Are there a specific number of acres targeted?
- Will we attempt to join contiguous blocks of land for conservation?
- Would climate change be addressed?
- Would funds be distributed evenly between the focal areas?
- What factor(s) will determine whether the proposed project moves forward?
- How would lands within the focal areas be prioritized?
- Would landowners be notified if the easement program moves forward?
- Would individual land owners be inventoried?
- Would individual easements require a public hearing, or local Board of Supervisors approval or Findings of Compatibility with local planning objectives?
- Would the program be limited to willing sellers only?
- Would fee-title ownership be considered?

Several respondents asked us to do a better job announcing the public meetings. One suggested that more local officials should have been notified about the scoping meetings. The San Benito County Board of Supervisors asked to be more involved with the next steps in the planning process.

Some respondents suggested that we coordinate with existing U.S. Department of Agriculture and the CA Department of Fish and Game conservation programs. Another respondent asked about the perceived competition between the proposed CFLA and existing easement programs managed by the Natural Resources Conservation Service and others.

### What areas should be included in the proposed CFLA?

We received many comments regarding the proposed CFLA focal areas. Some respondents wanted to know if we targeted areas for their biological value. Many respondents suggested that the proposed focal areas be expanded to include other areas, including:

- Tejon Ranch and Wind Wolves Preserve

- Kern River Canyon, South Fork Kern Valley, Walker Basin, the Caliente Creek drainage, and areas off Hwy 58.
- The riparian corridor of the San Benito River and the shorter riparian corridor of the Tres Pinos Creek.
- Foothills of Sacramento, Amador, and El Dorado Counties.
- Blue Ridge-Berryessa Natural Area
- Blue Ridge/Cortina Ridge/Capay Hills
- Yuba, Placer, and Nevada Counties (foothills north of I-80 and below the Sierra Checkerboard).
- Southern Shasta County.
- The area between Red Bluff and Redding along the freeway.
- Foothills of southern Tehama County to the Butte County line.
- Rangelands statewide.

One respondent stated that we should consider purchasing energy development rights as poorly sited energy development can harm wildlife, and turn pristine roadless areas into industrial zones, bring freeway width roads and high voltage power lines to the area.

*What is the FWS's existing easement program like and how would the new program be managed?*

We received a few comments on the FWS's existing wetland easement program in California, including: how long has it existed, how many acres are included, and how much does it cost to manage? Another respondent questioned why federal agencies pursue acquisition of additional lands when they don't have the resources to manage their existing lands effectively.

One respondent mentioned that trust is important between the landowner and the easement holder, and the easement holder needs to know ranching to be able to communicate. Another asked if a change in agency philosophy towards grazing could jeopardize the easement program. Finally, one respondent wanted to know how the Service would balance wildlife habitat and ranching when resources are limited.